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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/714,143	11/15/2003	James A. Napier	000129-0001	2369

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EXAMINER

CHAPMAN, JEANETTE E

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 05/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/714,143

Applicant(s)

NAPIER, JAMES A.

Examiner

Chapman E Jeanette

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

35 USC 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 7, 17, 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heisler et al (5765584) in view of by Bishop et al (5970661). Heisler discloses a climate control structure comprising:

- A tent thus the same is collapsible structure interchangeably transformable between first and second storage positions; the second inhabitable configuration defines a predetermined shape
- An opening capable of receiving a climate control unit which would provide high low ventilation; see abstract and drawing figures 4A-7B

Heisler lacks the climate control unit as that of Bishop et al. Bishop et al discloses

- A collapsible structure interchangeably transformable between first and second storage positions
- The portion defining a releasable climate control unit receiving aperture adjacent ref. no. 33; see figure 1 and 5; alternatively, the base reference discloses a portion defining a pliant resealable climate control unit-receiving aperture

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- A climate control unit 16 reversible attachable with the collapsible structure for use in the inhabitable configuration;
- The climate control unit conditions the air within the enclosure of the collapsible structure;
- The air is cooled;
- The aperture comprises a drawstring or elastic cord for engaging the climate control unit to form a weather resistant barrier between the exterior and interior of the building; see column 2, lines 1-32;
- The dwelling/adaptor is constructed of fabric; this includes cotton and nylon and combinations thereof; the specific type of material of choice has been considered a matter of choice; one of ordinary skill in the art would have appreciated all known and available materials and would have selected any one commensurate with the intended use, function, purpose and scope of the intended collapsible structure;
- A tent adaptor comprising:
 - A flange 39 having a front and back and at least a portion affixed to a tent;
 - A boot 33 having first and second ends defining a longitudinally extending aperture there between; the boot 33 affixable at the first end perpendicular to the flange 39 affixing a climate control unit to a tent;

- The second end 35/37 of the boot includes an elastic edge; see column 2, lines 1-32; the second end has a closure for closing the aperture at the second end

In view of the above, it would have been obvious to include the means of high/low ventilation or a climate control unit, the material of construction, the alternative means for closing the opening in order to impart a more modern and adaptable means of ventilation to the tent of Heisler

Claims 3, 7, 17, 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heisler et al in view of Bishop et al and further in view of Matthews (272199). Climate control units are manufactured to produce warm and cold air from a single unit; this fact is commonly and well known today. Matthew teaches a control unit which may be an air pump; air pumps are commonly known to produce warm and cold air. It would have been obvious to one of ordinary skill in the art to further modify Heisler et al to include the ventilation means and to create hot or cold air in order to provide a comfortable environment for the housing when employed outside in various weather conditions.

Both Bishop et al and Matthews discloses various ways to secure the control unit to the collapsible structure . Both references disclose that part of the fastening means is on the control unit and the other portion on the collapsible structure. The straps/carrier of applicant's fastening means is viewed as an alternative fastening means. Nothing critically significant is disclosed regarding this fastener over another except that it is used to secure the control unit to the collapsible structure. One of

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ordinary skill in the art would have been able to select any known and available connector means capable of providing the intended use and function of the device.

.Applicant's arguments are moot given the new ground of rejection.

This action is final.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chapman E Jeanette whose telephone number is 571-272-6841. The examiner can normally be reached on Mon.-Fri, 8:30-6:00, every other fri. off.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jeanette Chapman
Primary Examiner